

II.
STATUTORY BASIS FOR FORFEITURE

This is a civil forfeiture action *in rem* brought against the Respondent Properties for the violations of Title 31 U.S.C. §§ 5316(a)(1)(A) and 5332(a)(1) & (b), and subject to forfeiture to the United States pursuant to Title 31 U.S.C. §§ 5317(c)(2) and 5332(c)(1).

Title 31 U.S.C. § 5317. Search and Forfeiture of monetary instruments

* * *

(c) Forfeiture.—

* * *

(2) Civil forfeiture.— Any property involved in a violation of section 5313, 5316, or 5324 of this title, or any conspiracy to commit any such violation, and any property traceable to any such violation or conspiracy, may be seized and forfeited to the United States . . .

Title 31 U.S.C. § 5332. Bulk Cash Smuggling into or out of the United States

* * *

(c) Civil forfeiture.—

(1) In general.— Any property involved in a violation of subsection (a), or a conspiracy to commit such violation, and any property traceable to such violation or conspiracy, may be seized and forfeited to the United States.

III.
JURISDICTION AND VENUE

Under Title 28 U.S.C. § 1345, this Court has jurisdiction over an action commenced by the United States, and under Title 28 U.S.C. § 1355(a), jurisdiction over an action for forfeiture. This Court has *in rem* jurisdiction over the Respondent Property under Title 28 U.S.C. §§ 1355(b) and 1395(b). Venue is proper in this district pursuant to Title 28 U.S.C. § 1355(b)(1)(A), because the acts or omissions giving rise to the forfeiture occurred in this District, and pursuant to Title 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Respondent Property was seized in this District.

IV.
FACTS IN SUPPORT OF FORFEITURE

A. Criminal Case

On November 21, 2017, an Indictment (ECF No. 11) was returned against Defendant Raul Rojas Soto (“Rojas Soto”), in the Western District of Texas, El Paso Division, under Criminal Case Number EP-17-CR-2381-PRM for the violations of Title 31 U.S.C. §§ 5316(a)(1)(A) and 5332(a)(1) & (b). On March 14, 2018, the Government filed a Bill of Particulars Regarding Forfeiture (ECF No. 26) giving notice of its intent to seek forfeiture on certain property from Rojas Soto.

On March 26, 2018, Rojas Soto entered a plea of guilty pursuant to a written Plea Agreement (ECF No. 28) with the Government to Count Two of the Indictment (ECF No. 11) for the violations of Title 31 U.S.C. §§ 5316 (a)(1)(A) and 5332(b). As part of his guilty plea, Rojas Soto agreed to, immediately and voluntarily, forfeit all his right, title, and interest in the Respondent Properties.

On March 27, 2018, Rojas Soto was set for a arraignment hearing to be held before the Honorable Judge Leon Schydlower. However, said hearing did not take place, because Defendant Rojas Soto failed to appear before the Court.

To date, the Government has no knowledge of Rojas Soto’s whereabouts.

B. Investigation

On October 27, 2017, at approximately 9:40 a.m., Rojas Soto, accompanied by his 81-year old mother, Elva Rojas Barron, attempted exiting the United States via the southbound Stanton Bridge in El Paso, Texas. Rojas Soto was the driver of the Respondent Vehicle bearing Arizona license plate number BSV4123.

United States Customs and Border Protection Officer Quinn Boyle (“CBPO Boyle”) received a negative declaration from both Rojas Soto and his mother when asked if they possessed currency exceeding \$10,000. Rojas Soto further declared he was the owner of the Respondent Vehicle. Furthermore, Rojas Soto advised CBPO Boyle that he owns a dental lab in Arizona, and he was going to be visiting Juarez for approximately two weeks.

CBPO Boyle again asked Rojas Soto if he was exporting any cash, checks, or money orders in excess of \$10,000, which Rojas Soto stated he only had \$400 on his person. CBPO Boyle explained to Rojas Soto that it was not a crime to export more than \$10,000 as long as it was declared and the proper form was completed. Rojas Soto once again gave CBPO Boyle a negative declaration. At that time, CBPO Boyle referred Rojas Soto and his mother to secondary inspection for a more thorough exam.

At the secondary inspection station, United States Customs and Border (“CBP”) Officers asked Rojas Soto to empty his pockets. Rojas Soto immediately went for his ankles and removed the Respondent Currency from both of his socks. The inspection of Rojas Soto’s mother yielded a negative result. Both, Rojas Soto and his mother, were transported to the nearby Del Norte Port of Entry pending further processing.

Homeland Security Investigations (“HSI”) Agents Jose Licon (“Agent Licon”) and Narciso Retana (“Agent Retana”) responded to the scene to investigate the incident. Agent Licon advised Rojas Soto of his Miranda Rights in Spanish. Rojas Soto stated he understood his rights and signed a Miranda Rights form. Rojas Soto agreed to speak with both HSI Agents without the presence of an attorney.

Rojas Soto advised HSI Agents Licon and Retana that he travels from Phoenix, Arizona to Juarez, Mexico on a monthly basis accompanied by his mother for the purpose of

manufacturing dentures in Mexico for U.S. clients, and had been doing so for at least a year. Rojas Soto further stated he is a licensed dentist in Juarez, Mexico, and owns and operates a dental lab in Phoenix, Arizona where he takes his clients dental impressions. Rojas Soto stressed he does not administer anesthesia or do tooth extractions. He also stated he has many patients in the United States and makes \$70,000 per year. Upon further questioning, Rojas Soto nervously could not provide a list of his clients, a business card for his business, nor the name or location of his lab. Rojas Soto later contradicted himself by stating he sometimes has to refund his client's money when a tooth implant "does not take."

HSI Agents then asked Rojas Soto if his business was licensed, and if he paid taxes. Rojas Soto replied his business was not licensed and his accountant would know if taxes were being paid. However, Rojas Soto could not provide the name and address of his accountant or his business tax identification number.

Rojas Soto stated that it was in "error" on his part not declaring the Respondent Currency he hid in both his socks. Rojas Soto explained that he sporadically saved \$200 to \$300 at a time for seven months to come up with the amount of the Respondent Currency. Rojas Soto advised he kept the Respondent Currency in a brown envelope behind his kitchen refrigerator. HSI Agents asked why he did not deposit the Respondent Currency into his Wells Fargo account with a current balance of \$5,000, which he has previously disclosed to the Agents. Rojas Soto had no answer to the question, and nervously combed his hair with his hands.

Rojas Soto stated the Respondent Currency was for his pending travel to Germany. He explained that he travels extensively to Japan, New York, Peru, Paris, and other European destinations for pleasure and further added he did not know how much money he was carrying that same day. Rojas Soto admitted to having used this credit card to pay for all of his previous

trips, but on this pending trip to Germany, he was going to use the Respondent Currency. HSI Agents then asked why he did not plan to use his credit card for the trip to Germany, and Rojas Soto replied it was because of the, then current, state of the strong dollar.

HSI Agents noticed that Rojas Soto was getting increasingly nervous when answering questions by stating, “I don’t know, I am getting confused, I think I need an attorney.” At that time, HSI Agents ceased the interview of Rojas Soto.

Based upon the foregoing, the Respondent Properties are subject to forfeiture pursuant to Title 31 U.S.C. §§ 5317(c)(2) and 5332(c)(1), as properties involved in violations of Title 31 U.S.C. §§ 5316(a)(1)(A) and 5332(a)(1) & (b).

**V.
PRAYER**

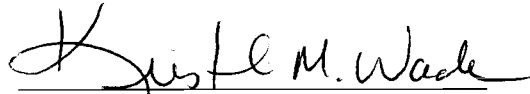
WHEREFORE, Petitioner, United States of America, prays that due process issue to enforce the forfeiture of the Respondent Properties, that due notice, pursuant to Rule G(4), be given to all interested parties to appear and show cause why forfeiture should not be decreed,¹ that a warrant for an arrest in rem be ordered, that the Respondent Properties be forfeited to the United States of America, that the Respondent Properties be disposed of in accordance with the law, and for any such further relief as this Honorable Court deems just and proper.

¹Appendix A, Notice of Complaint of Forfeiture, which is being filed along with this complaint, will be sent to those known to the United States to have an interest in the Respondent Properties.

Respectfully submitted,

JOHN F. BASH
United States Attorney for the
Western District of Texas

By:

A handwritten signature in black ink, appearing to read "Kristal M. Wade", written over a horizontal line.

Kristal M. Wade
Assistant United States Attorney
New Mexico Bar No. 8204
700 E. San Antonio Ave., Suite 200
El Paso, Texas 79901
Tel: (915) 534-6884
Fax: (915) 534-3461

VERIFICATION

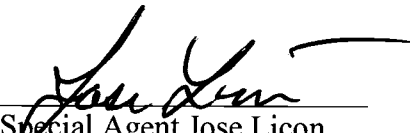
Special Agent, Jose Licon, declares and says that:

I am a Special Agent with Homeland Security Investigations, assigned to the El Paso Field Office, and I am the investigator responsible for the accuracy of the information provided in this complaint.

I have read the above Verified Complaint for Forfeiture and know the contents thereof based upon my personal participation in the investigation, my conversations with others, and my review of documents and other evidence. Based upon information and belief, the allegations contained in the Verified Complaint for Forfeiture are true and correct. Because the Verified Complaint is being submitted for the limited purpose of stating sufficiently detailed facts to support a reasonable belief that the government will be able to meet its burden of proof at trial, it does not contain every fact known by me or the United States. Where the actions, conversations, and statements of others are related therein, they are related in substance and in part, unless otherwise stated.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on this the 29th day of January, 2019.



Special Agent Jose Licon
Homeland Security Investigations

Pursuant to Rule G(4)(b) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, notice to any person who reasonably appears to be a potential

claimant shall be by direct notice. Accompanying this notice is the Verified Complaint for Forfeiture which has been filed in this cause and which describes the Respondent Properties. Pursuant to Supplemental Rule G(4)(b), any person claiming an interest in the Respondent Properties who has received direct notice of this forfeiture action must file a Claim in compliance with Rule G(5)(a), with the court within **thirty-five (35) days after the notice was sent, if delivered by mail (if mailed, the date sent is provided below), or within 35 days of the date of delivery, if notice was personally served.** An Answer or motion under Rule 12 of the Federal Rules of Civil Procedure must then be filed within **twenty-one (21)** days of the Claim being filed. The Claim and Answer must be filed with the Clerk of the Court, 525 Magoffin, Suite 105, El Paso, Texas 79901, and copies of each must be served upon Assistant United States Attorney Kristal M. Wade, 700 E. San Antonio Ave, Suite 200, El Paso, Texas 79901, or default and forfeiture will be ordered. *See* Title 18 U.S.C. § 983(a)(4)(A) and Rule G(5) of the Supplemental Rules for Admiralty or Maritime Claim and Asset Forfeiture Actions.

Failure to follow the requirements set forth above will result in a judgment by default taken against you for the relief demanded in the complaint.

DATE NOTICE SENT: _____

JOHN F. BASH
United States Attorney
for the Western District of Texas

By: _____
Kristal M. Wade
Assistant United States Attorney
New Mexico Bar No. 8204
700 E. San Antonio Ave., Suite 200
El Paso, TX 79901
Tel: 915-534-6884
Fax: 915-534-3461

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

EP 19 CV 0036

IT IS THEREFORE ORDERED that a Warrant for the Arrest of Properties against the Respondent Properties issue as prayed for, and that the United States Customs and Border Protection, Offices of Fines, Penalties and Forfeitures, and/or Homeland Security Investigations,

or any other law enforcement officer, or any other person or organization authorized by law to enforce the warrant, be commanded to arrest the Respondent Properties and take it into possession for safe custody as provided by Rule G, Supplemental Rules of Federal Rules of Civil Procedure, until further order of the Court, and to use whatever means may be appropriate to protect and maintain it in their custody, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Properties, and to make a return as provided by law.

SIGNED this _____ day of _____, 2019.

UNITED STATES DISTRICT JUDGE

WHEREAS, on January 29, 2019, Petitioner United States of America, by its attorneys, John F. Bash, United States Attorney for the Western District of Texas, and Assistant United States Attorney Kristal M. Wade, filed a Verified Complaint for Forfeiture in the United States District Court for the Western District of Texas, against \$13,522.00, more or less, in United States Currency and a 2016 Land Rover Range Rover bearing Vehicle Identification Number SALVP2BG3GH105742, seized on or about October 27, 2017, in El Paso, Texas, in the Western District of Texas (hereinafter referred to as the “Respondent Properties”), alleging that the Respondent Properties are subject to forfeiture to the United States of America pursuant to Title

31 U.S.C. §§ 5317(c)(2) and 5332(c)(1), as properties involved in violations of Title 31 U.S.C. §§ 5316(a)(1)(A) and 5332(a)(1) & (b), and

WHEREAS an Order has been entered by the United States District Court for the Western District of Texas that a Warrant for Arrest of Properties be issued as prayed for by Petitioner United States of America,

YOU ARE THEREFORE COMMANDED to arrest the Respondent Properties as soon as practicable by serving a copy of this warrant on the custodian in whose possession, custody or control the Respondent Properties are presently found, and to use whatever means may be appropriate to protect and maintain it in your custody until further order of this Court, including designating a substitute custodian or representative for the purposes of maintaining the care and custody of the Respondent Properties and to make a return as provided by law.

SIGNED this _____ day of _____, 2019.

JEANNETTE J. CLACK
United States District Clerk
Western District of Texas

By: _____
Deputy

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing of a service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States on September 1, 2014, is required for use of the federal courts for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Kristal M. Wade, Assistant United States Attorney
700 E. San Antonio, Suite 200
El Paso, Texas 79901 (915) 534-6884

DEFENDANTS

\$13,522.00, more or less, in United States currency and 2016 Land Rover Range Rover

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input checked="" type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RS1 (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from Another District (specify)
☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

31 U.S.C. §§ 5317(c)(2) and 5332(c)(1)

Brief description of cause:

Bulk Cash Smuggling and Currency Reporting Requirements

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

Philip R. Martinez

DOCKET NUMBER

EP-17-CR-2381

DATE
01/29/2019

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE